REMARKS

The present application includes pending claims 1-53, all of which have been rejected. In particular, claims 1-53 stand rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication No. 2003/0151621 ("McEvilly"). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following:

I.   McEvilly Does Not Anticipate Claims 1-53

Claim 1 of the present application recites, in part, "a user interface, at the first home, **having at least one <u>user defined</u> media channel**, the at least one <u>user defined</u> media channel comprising a sequence of user selected and scheduled media,** the user interface supporting selection and scheduling of the media." The claim clearly recites that a media channel, not merely an interface or preferences, is defined by a user.

On the other hand, McEvilly discloses a "graphical **interface** that is customizable and personalized for each user." *See* McEvilly at Abstract (emphasis added).   In particular, McEvilly discloses the following:

> [A]n embodiment of the present invention provides a system and method for providing a user with access to a plurality of services and content from a number of remote servers and that provides the user with access to the desired service and content through a graphical interface that is customisable and personalised for each user. In one embodiment, the system monitors the services that are requested by each user to update and maintain user profiling information for each user. This user profiling information can then be used, for example, to target services or content for the user.

See id. at ¶ [0047]. In short, McEvilly discloses a graphical guide that assists a user in selecting among a variety of media. The user's media habits may be monitored so that the system can "target services or content to the user," but McEvilly does not describe, teach or suggest a "user defined media channel."

As indicated above, the graphical interface disclosed in McEvilly is "customizable."

> ... a graphical user interface that is personalized for each user. In this embodiment, the menu design, selections, and content displayed to a user are based on user profile data and usage information maintained by the system in one or more databases.

See id. at ¶ [0050].

As McEvilly specifically discloses, however, the interface is customizable in minor fashion. *See id.* at ¶ [0110] ("This is designed to allow **minor user-specific page customisations** such as a change in background colour or the addition of the user name to the menu screen, to be applied to the HTML file after it has been generated using the style sheet and the XML."). *See also id.* at ¶ [0170].

McEvilly also discloses a program guide that may be displayed to a specific user:

> Based on this stored information, the system can build a programme guide to be displayed to a specific user that is personalised for that specific user, displaying, for example, a **channel line-up based on the user's indicated preferences and/or usage**, the user's favourites list, and related programming information customised for the specific user.

See id. at ¶ [0051] (emphasis added). Notably, the programme guide may list a plurality of programs from a plurality of channels. Again, however, McEvilly does not describe, teach or suggest a "user defined media channel."

McEvilly lists the types of services that a user may gain access, and which may be displayed in relation to the user interface:

> In this embodiment, the services that the user can access include:
>
> i) video on demand...;
>
> ii) email from a mail server...;
>
> iii) an electronic programme guide (EPG)...;
>
> iv) electronic commerce from a shopping server...;
>
> v) Internet/world wide web access...;
>
> vi) broadcast TV (BTV) including **basic television channels, premium channels**...; and
>
> vii) user services such as billing information, user profiles etc., provided by a management and billing server....

See id. at ¶¶ [0056] – [0063] (emphasis added). *See also id.* at ¶¶ [0309] – [0316]. Notably, McEvilly is clear that a user may gain access to a plurality of **broadcast and premium channels** by way of the user interface. *See id.* at ¶ [0065] ("In this embodiment, the user gains access to the different services and content provided by the application servers 30 via menu pages of a graphical user interface..."). Thus, a user may gain access to standard, pre-existing channels through the customizable user interface, but these channels are not "user defined."

Indeed, McEvilly even discloses an "alert" function that indicates that a favorite program is being broadcast on another standard channel:

> In this embodiment, an alerts common function is provided which is used to notify users when one of the application servers 30 (such as the mail server 19) needs their attention, when the user is using a different application server 30 (such as the broadcast TV server 27). This alerts common function can be used, for example, to give the following type of alerts: that there is a new E-mail message for the user; that a favourite television programme is current showing **on a different channel**; that the user has missed a favourite television programme but it has been recorded for the user if they wish to view it now etc.

See id. at ¶ [0127] (emphasis added). In short, the user interface of McEvilly is used to allow a user to select among a variety of services and content. For example, a user may switch from one service, such as email, to a broadcast television channel, or among a plurality of broadcast television channels, using the user interface. *See id., e.g.,* at ¶ [0177] ("As shown, above this window 121 the name 123 of the film or channel currently playing is displayed to the user (in this illustration "Channel 5" is displayed)" *and* ¶ [0184] (... the All Channels option 131 provides the user with a full electronic programme guide for all of the channels to which the user has subscribed.").

Overall, McEvilly discloses a system and method in which a user selects among a variety of services by way of a customizable user interface. The user selects among the content and services at his/her current location, and the selected content or service is then sent to that user's location.

A.   McEvilly Does Not Describe, Teach Or Suggest A User Defined Media Channel

While McEvilly discloses a system and method of selecting among a variety of services and content (including a plurality of television channels), McEvilly does not describe, teach or suggest "a user interface, at the first home, **having at least one user defined media channel**, the at least one user defined media channel comprising a **sequence of user selected and scheduled media**, the user interface supporting selection and scheduling of the media."   Again, McEvilly merely discloses a customizable interface that allows a user to select programming from a variety of existing channels, but does not describe, teach or suggest a **user-defined media channel** at all, let alone one where the user-defined media channel comprises **a sequence of user selected and scheduled media**.   Thus, for at least this reason, the Applicants respectfully submit that McEvilly does not anticipate claims 1-11.

Independent claim 12 recites, in part, "a user interface, at the first home, having at least one user defined media channel, the at least one user defined media channel comprising a sequence of user selected and scheduled media, the user interface supporting selection and scheduling of the media," while independent claim 23 recites, in part, "a user interface having at least one user defined media channel comprising a sequence of user selected and scheduled media, the user interface supporting selection and scheduling of the media."   As discussed above, McEvilly does not describe, teach or suggest a "user defined media channel comprising a sequence of user selected and

scheduled media." This, for at least the reasons discussed above, McEvilly does not anticipate claims 12-28.

In response to the Applicants, the current Office Action states the following:

> McEvilly discloses that the menu design, selections, and content displayed to a user based on user profile data and usage information maintained by the system in one or more databases. The stored user profile data and usage information may be used by the system to create a personalized menu including design elements, services, and content based on the profile data and usage information of the user which the menu will be presented **(p. 3, 50)**.

See October 31, 2007 Office Action at pages 4-5 (emphasis added). Notably, the Office Action indicates that McEvilly discloses a customizable user **interface and personalized menu**. A customizable user interface and personalized menu is not, however, a "user interface having at least one **user defined <u>media channel</u>** comprising **a sequence of user selected and scheduled media**, the user interface supporting selection and scheduling of the media."

Further, McEvilly at ¶ [0050], which the Office Action cites to support its argument (as indicated above), states the following:

> According to another aspect, the present invention provides a system for allowing a user to gain access to the services and/or content provided by a number of remote servers using a **graphical interface that is personalised for each user**. In this embodiment, the menu design, selections, and content displayed to a user are **based on user profile data and usage information maintained <u>by the system</u>** in one or more databases. The stored user profile data and usage information **may be used <u>by the system</u> to create a personalised menu** including design elements, services and content based on the profile data and usage information of the user to which the menu will be presented. In this

> embodiment, each menu screen presented to a specific user
> may have a consistent design, look and feel and includes
> services and content targeted to that specific user.

McEvilly at ¶ [0050] (emphasis added). This paragraph discloses a "graphical interface," not a media channel, "that is personalized for each user." Various aspects of the interface are based on user profile data and usage information maintained by the system. The **system**, not the user, may then create a "personalized menu," not a media channel, with content targeted to a specific user. At best, McEvilly discloses a **system**, but not a user, that creates a "personalized menu" for a user. The **system** determines services and content for the user based on profile data and usage information. Neither the system, nor a specific user, however, defines or creates a "media channel."

The Office Action also cites McEvilly at ¶¶ [0156]-[0161] as disclosing a "user interface having at least one **user defined <u>media channel</u>** comprising **a sequence of user selected and scheduled media**, the user interface supporting selection and scheduling of the media." However, these paragraphs relate to a "management and billing server." *See id.* at ¶¶ [0156]-[0161]. In particular, the "billing server 29 is operable to provide various user services such as user billing and user profiling." *See id.* at ¶ [0157]. The billing server 29 is responsible for "setting up the various user profiles and user tables within the database 39 for the new user." *See id.* Further, the "management and billing server 29 is also responsible for tracking payment of bills by the different users and for blocking the provision of services or content to users if they do not make payment." *See id.* at ¶ [0158]. Notably, the management and billing

server 29 (not a user) provides user billing and user profiling. Further, while the server provides billing and user profiling aspects, it does not define or create a media channel, let alone one defined by a user. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

Independent claim 29 recites, in part, "executable code enabling **creation by a first user of one or more media channels for distribution to an authorized second user at a second location** remote from the first location." As discussed above, McEvilly allows a particular user to select among a plurality of broadcast channels and other services, but it does not describe, teach or suggest "**creation** by a first <u>user</u> of one or more **media channels** for distribution to an authorized second user at a second location remote from the first location." Thus, for at least this reason, McEvilly does not anticipate claims 29-39.

The Office Action responds by citing McEvilly at ¶ [0328]. *See* October 31, 2007 Office Action at page 5. However, this paragraph states the following:

> It will be appreciate [sic] that any of the user devices, servers, or other devices described above may be regarded as machines within which a set of instructions, for causing the machine to perform any one or more of the methodologies discussed herein, may be executed. In various embodiments a machine may operate as a standalone device or may be connected (e.g., networked) to other machines. In a networked deployment, a machine may operate in the capacity of a server or a client machine in server-client network environment, or as a peer machine in a peer-to-peer (or distributed) network environment. A machine may be a personal computer (PC), a tablet PC, a set-top box (STB), a television, a Personal Video Recorder (PVR), a Personal Digital Assistant (PDA), a cellular telephone, a web appliance, a network router, switch or

> bridge, any combination of the above devices, or any machine capable of executing a set of instructions (sequential or otherwise) that specify actions to be taken by that machine. Further, while only a single machine may described above as performing certain operations and functions, the term "machine" shall also be taken to include any collection of machines that individually or jointly execute a set (or multiple sets) of instructions to perform any one or more of the methodologies discussed herein.

Id. at ¶ [0328]. This paragraph merely discloses that a machine, such as a PC or set top box, may be operated as a standalone device or networked to other machine. There is nothing in this paragraph, however, that describes, teaches or suggests "executable code enabling **creation by a first user of one or more media channels for distribution to an authorized second user at a second location** remote from the first location." Thus, for at least this reason, the Applicants respectfully request reconsideration of the claim rejections.

B.   McEvilly Does Not Describe, Teach Or Suggest Delivery Of Media From A First Home To A Second Home

As discussed above, McEvilly discloses a system and method in which a user in a first location requests delivery of media content from that first location, and the media content is ultimately delivered to that first location. McEvilly does not describe, teach or suggest, however, "server software that receives **from the first home** at the associated first protocol address, via a communication network, a **request for the delivery of the media**,… and that responds by **coordinating delivery of the media from one of the first storage and the at least one server to the <u>second television [in the second home]</u>**…," as recited in claim 12, for example. While McEvilly discloses that "machines"

may be networked, the Office Action has not cited anything that describes, teaches or suggests "server software that receives **from the first home** at the first associated first protocol address, via a communication network, a <u>**request**</u> **for the delivery of the media**,… and that responds by **coordinating delivery of the media from one of the** <u>**first storage and the at least one server**</u> **to the** <u>**second television [in the second home]**</u>…," as recited in claim 12, for example. Thus, for at least this additional reason, McEvilly does not anticipate claims 12-22.

Claim 29 recites, in part, "wherein each of the one or more media channels comprises a sequence of media content selected by the first user, which is made available for consumption by the **second user** of the media exchange network **at times scheduled by the first user**." Again, McEvilly discloses a system and method in which a user requests content at a first location, and that content is ultimately delivered to that user at that first location. McEvilly does not describe, teach or suggest, however, a first user creating a media channel, and scheduling programs on that media channel for a second user in a different location. Thus, for at least this additional reason, McEvilly does not anticipate claims 29-39.

II. Claims 40-53 Should Be In Condition For Allowance

Claims 40-53 should be in condition for allowance for at least some of the reasons discussed above. For example, claim 40 recites, in part, "a user interface having at least one **user defined media channel** comprising **a sequence of user selected and scheduled media**, the user interface supporting selection and scheduling

of the media." McEvilly does not describe, teach or suggest such a user interface, as discussed above.

Claim 46 recites, in part, "server software that receives via a communication network **a __request__ for the delivery of the media, the request __comprising__ information securing payment for delivery**, and that responds by coordinating the delivery of the media **from a storage at a second location to a television display at a third location for consumption**." The Applicants respectfully submit that McEvilly does not describe, teach or suggest these limitations.

III.   Conclusion

In general, the Office Action makes various statements regarding claims 1-53 and McEvilly that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. The Applicants expressly reserve the right, however, to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully submit that the Office Action has not established a prima facie case of anticipation with respect to any of the pending claims for at least the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the Applicants.

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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